

Plaintiff James Hayden (“Mr. Hayden”) and Defendants 2K Games, Inc. and Take-Two Interactive Software, Inc. (collectively, “Take-Two”) hereby stipulate as follows:

WHEREAS, in Mr. Hayden’s August 1, 2022 Trial Brief, he identified Darren Palmer as a witness that he intends to call at trial, stating that he is a “Calfee employee who played and captured video footage of Accused Games submitted as exhibits to Opposition to Summary Judgment” and that he will testify about “Creation and authentication of exhibits showing clips of Accused Games (Dkt # 109-2, 109-3, 109-4, 109-5, 109-6); personal knowledge related to gameplay of the Accused Games,” Dkt. 170 at 8;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED THAT:

1. The following exhibits are authentic videos of gameplay from the Accused Games and the parties stipulate to their admission:<sup>1</sup>

- a. PX-31 (“NBA 2K16 Video Footage (Dkt. # 109-2)”).
- b. PX-32 (“NBA 2K17 Video Footage (Dkt. # 109-3)”).
- c. PX-33 (“NBA 2K18 Video Footage (Dkt. # 109-4)”).
- d. PX-34 (“NBA 2K19 Video Footage (Dkt. # 109-5)”).
- e. PX-35 (“NBA 2K20 Video Footage (Dkt. # 109-6)”).
- f. PX-745 (“NBA 2K Game Clip Compilation”)
- g. Exhibit AG (“NBA 2K16 Gameplay (Dkt. 95-5, Ex. A)”).
- h. Exhibit AH (“NBA 2K17 Gameplay (Dkt. 95-5, Ex. B)”).
- i. Exhibit AI (“NBA 2K18 Gameplay (Dkt. 95-5, Ex. C)”).
- j. Exhibit AJ (“NBA 2K19 Gameplay (Dkt. 95-5, Ex. D)”).
- k. Exhibit AK (“NBA 2K20 Gameplay (Dkt. 95-5, Ex. E)”).
- l. Exhibit AL (“NBA 2K Mobile Gameplay, Danny Green (Dkt. 95-5, Ex. F)”).
- m. Exhibit AM (“NBA 2K Mobile Gameplay, LeBron James (Dkt. 95-5, Ex. G)”).
- n. Exhibit AN (“NBA 2K Mobile Gameplay, Tristan Thompson (Dkt. 95-5, Ex. H)”).
- o. Exhibit AO (“NBA 2K16 Clip (Dkt. 95-12)”).
- p. Exhibit AP (“NBA 2K17 Clip (Dkt. 95-13)”).
- q. Exhibit AQ (“NBA 2K18 Clip (Dkt. 95-14)”).

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<sup>1</sup> If the parties modify any of the listed exhibit numbers or letters when they submit revised Trial Briefs, this Stipulation applies to the same exhibits with modified exhibit numbers or letters.

- r. Exhibit AR (“NBA 2K19 Clip (Dkt. 95-15)”).
  - s. Exhibit AS (“NBA 2K20 Clip (Dkt. 95-16)”).
2. The following exhibits are authentic copies of the Accused Games and the parties stipulate to their admission:
- a. PX-0717 (“NBA 2K16 (TAKE-TWO\_0001145)”).
  - b. PX-0718 (“NBA 2K17 (TAKE-TWO\_0001146)”).
  - c. PX-0719 (“NBA 2K18 (TAKE-TWO\_0001147)”).
  - d. PX-0720 (“NBA 2K19 (TAKE-TWO\_0001148)”).
  - e. PX-0721 (“NBA 2K20 (TAKE-TWO\_0002636)”).
  - f. Exhibit AA (“Physical Exhibit: NBA 2K16 Game”).
  - g. Exhibit AB (“Physical Exhibit: NBA 2K17 Game”).
  - h. Exhibit AC (“Physical Exhibit: NBA 2K18 Game”).
  - i. Exhibit AD (“Physical Exhibit: NBA 2K19 Game”).
  - j. Exhibit AE (“Physical Exhibit: NBA 2K20 Game”).
3. Mr. Hayden withdraws his identification of Mr. Palmer as a trial witness, will not list Mr. Palmer as a trial witness in his revised Trial Brief due on April 20, 2023, and will not call Mr. Palmer as a witness at trial.
4. The parties will not object to, challenge, or cross-examine witnesses at trial regarding the contents of videos in Paragraph 1 on the grounds that the witness did not personally capture or create them.

DATED: April 20, 2023

/s/Dale M. Cendali

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